

STATE OF SOUTH CAROLINA

(Caption of Case)

**Petition of South Carolina Electric & Gas Company
for Approval to Participate in a Distributed Energy
Resource Program****BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
COVER SHEET****DOCKET****NUMBER: 2015 - 54 - E**

(Please type or print)

Submitted by: Stephanie U. Roberts**SC Bar Number:** 80073**Address:** 110 Oakwood Drive, Suite 500**Telephone:** 336.725.4710Winston-Salem, NC 27103**Fax:** 336.725.4476**Other:** _____**Email:** sroberts@spilmanlaw.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

- ☐ **Emergency Relief demanded in petition** ☐ **Request for item to be placed on Commission's Agenda expeditiously**
- ☐ **Other:** _____

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input checked="" type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input checked="" type="checkbox"/> Other: Letter and COS
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest	
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit	
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report	



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May 14, 2015

Via SCPSC E-FILING DMS

The Honorable Jocelyn G. Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, SC 29210

**Re: Petition of South Carolina Electric & Gas Company for Approval to Participate in a
Distributed Energy Resource Program
Docket No. 2015-54-E**

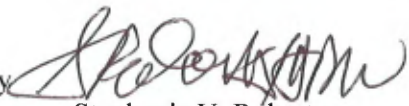
Dear Ms. Boyd:

Please find attached for electronic filing with the Public Service Commission of South Carolina ("Commission") a copy of the Direct Testimony of Kenneth E. Baker on behalf of Wal-Mart Stores East, LP, and Sam's East, Inc. (together, "Walmart"), in the above-referenced cases. By copy of this letter, I am serving all parties of record in both cases via First Class Mail and Electronic Mail.

Please contact us if you have any questions concerning this filing.

Sincerely,

SPILMAN THOMAS & BATTLE, PLLC

By 
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(SC Bar No. 80073)

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SUR/lhi: 7317698
Attachments
c: Certificate of Service

STATE OF SOUTH CAROLINA
BEFORE THE PUBLIC SERVICE COMMISSION

IN RE: Petition of South Carolina Electric)
& Gas Company for Approval to Participate in a)
Distributed Energy Resource Program)

Docket No. 2015-54-E

DIRECT TESTIMONY OF KENNETH E. BAKER

ON BEHALF OF

WAL-MART STORES EAST, LP AND SAM'S EAST, INC.

Dated: May 14, 2015

1 **Q. Please state your name and business address.**

2 A. My name is Kenneth E. Baker. My business address is 2001 SE 10th Street, Bentonville,
3 AR 72716-0550.

4

5 **Q. By whom are you employed and what is your position?**

6 A. I am employed by Wal-Mart Stores, Inc. as Senior Manager of Sustainable Regulation.

7

8 **Q. Please describe your education and professional experience.**

9 A. In 1985, I received my B.S. degree in Health Science from College of St. Frances and
10 later attended law school at the University of Arkansas at Little Rock School of Law,
11 graduating in 1992 with a J.D. degree. I then practiced law at the Center for Arkansas
12 Legal Services from 1992 to 1999 prior to joining Walmart. Early in my career at
13 Walmart, I held the position of Manager of Real Estate where I helped locate sites for
14 distribution centers. My duties in this position included locating sites and negotiating
15 with communities to build distribution centers. In 2006, I transferred to the Energy
16 Department and am currently the Senior Manager for Sustainable Regulation and
17 Legislation. My current duties include monitoring and participation in utility commission
18 cases and monitoring legislation that primarily deals with energy policy matters that
19 could potentially impact our business. I have also been involved in the negotiation,
20 drafting, and execution of renewable energy and energy efficiency contracts.

21

1 **Q. On whose behalf are you testifying?**

2 A. I am testifying on behalf of Wal-Mart Stores East, LP and Sam's East, Inc. (collectively
3 "Walmart"), an intervenor in South Carolina Electric & Gas Company's ("SCE&G")
4 Distributed Energy Resource ("DER") Program case.

5
6 **Q. Was this testimony prepared by you or under your direction?**

7 A. Yes.

8

9 **Q. Have you previously testified before the Public Service Commission of South**
10 **Carolina ("Commission")?**

11 A. Yes. I have submitted testimony in Docket No. 2005-386-E, Petition of the Office of
12 Regulatory Staff to Establish Dockets to Consider Implementing the Requirements of
13 Section 1252 (Smart Metering) of the Energy Policy Act of 2005, and Docket No. 2014-
14 246-E, Petition of the Office of Regulatory Staff to Establish a Proceeding Pursuant to
15 the Distributed Energy Resources Program Act, Act No. 236 of 2014, Ratification
16 No. 241, Senate Bill No. 1189. I also recently submitted pre-filed written testimony in
17 the Duke DER cases at Docket Nos. 2015-53-E and 2015-55-E.

18

19 **Q. Have you previously submitted testimony before other state regulatory**
20 **commissions?**

21 A. Yes, I have submitted testimony before the Commissions in Kentucky, Missouri, North
22 Carolina, New Mexico, Massachusetts, Arizona, Georgia, and Indiana. Additionally, I
23 have submitted testimony before legislative committees in Texas and Pennsylvania. My

1 testimony has included topics concerning demand response, demand side management
2 measures, and renewable energy issues.
3

4 **Q. What impact does Walmart have on the South Carolina economy?**

5 A. As of February 19, 2015, Walmart has over 100 retail facilities and over 26,000
6 associates in South Carolina. Additionally, as of fiscal year ending 2014, Walmart spent
7 over \$942 million for merchandise and services with South Carolina suppliers, supporting
8 over 14,000 jobs in the state. See [http://corporate.walmart.com/our-](http://corporate.walmart.com/our-story/locations/united-states)
9 [story/locations/united-states](http://corporate.walmart.com/our-story/locations/united-states).
10

11 **Q. How much electric energy does Walmart purchase from South Carolina utilities?**

12 A. Walmart purchased over 447 million kWh from South Carolina electric utilities,
13 including SCE&G, in 2014.
14

15 **Q. Is Walmart currently participating in on-site renewable generation?**

16 A. Yes. Walmart currently has over 311 on-site renewable installations nationally. Those
17 installations consist primarily of on-site photovoltaic systems.
18

19 **Q. What is the purpose of your testimony?**

20 A. In this testimony, I comment on certain elements of SCE&G's DER Program filings, as
21 well as, generally, the Distributed Energy Resources Act, Act No. 236 of 2014,
22 Ratification No. 241, Senate Bill No. 1189 ("the Act") and the Settlement Agreement
23 approved by the Commission at Docket No. 2014-246-E.

1 **Q. Does Walmart support the general requirements of the Act?**

2 A. Yes, there are portions of the Act that Walmart supports. For example, the Act clarifies
3 that net metering shall be available for customer-generation owners or lessees up to 1,000
4 kW (or the maximum demand of a facility, whichever is lower).

6 **Q. What specific elements of the Act are important to Walmart?**

7 A. The Act allows for programs that promote the installation of on-site renewable solar
8 energy, whether as owned by a customer or pursuant to a customer's lease of such
9 facilities from a third-party provider. In that regard, the Act states:

10 . . . In the proposed distributed energy resource program the
11 electric utility:

12 * * *

13 (2) shall establish a program . . . to encourage customers of the
14 electric utility to purchase or lease renewable energy facilities,
15 each no greater than one thousand kilowatts (1,000 kW AC)

16 § 58-39-130(C)(2) (emphasis added).

17 **Q. Did the Commission-approved Settlement at Docket No. 2014-246-E implicate this**
18 **aspect of the Act?**

19 A. Yes, it did. The Settlement Agreement specifically acknowledged this provision of the
20 Act as it applies to utility DER programs. See PSC Order No. 2015-194, Docket No.
21 2014-246-E, Settlement Agreement, p. 3, § III.1.g.

1 **Q. What is Walmart's general reaction to SCE&G's DER Program filing and**
2 **supporting testimony?**

3 A. Walmart is concerned that the proposed program seems to be limited in its effort to
4 encourage customers to independently pursue DER leasing opportunities.

6 **Q. Does SCE&G's Program plan address third-party leasing?**

7 A. SCE&G in its initial Petition appeared to acknowledge the third-party "leasing" aspects
8 of DER as they are reflected in the Act. For example, in its Petition in this case, SCE&G
9 stated in discussing "Customer-Scale DER Capacity," that its plan provides "incentives to
10 encourage its customers to purchase or lease DER facilities" up to 1,000 kW AC. See,
11 e.g., SCE&G Petition, p. 4, ¶ 18. SCE&G's Petition also summarized a proposed "Solar
12 Photovoltaic Generation Purchase Rate" that presumably would apply to customer-owned
13 or leased DER facilities with a term of 10 years. Id. at 8. In testimony, SCE&G seems to
14 specify that 10-year arrangements or "Bill Credit Agreements" ("BCAs") will apply and
15 reflect the "Solar Photovoltaic Generation Purchase Rate" that was referenced in the
16 Petition. See Direct Testimony of John H. Raftery, p. 11.

18 **Q. What is your concern?**

19 A. I am concerned that SCE&G's testimony does not clearly acknowledge, as reflected in the
20 Settlement Agreement, that customers may wish to pursue leasing arrangements with
21 third-party solar providers instead of SCE&G. Although SCE&G is proposing what it
22 refers to in testimony as "Lease/Finance Options," this appears to be an offering limited
23 to only certain rate schedules that is predicated solely on SCE&G leasing or financing

1 DER facilities (id. at 16-17), which is distinct from customers pursuing DER lease and
2 financing arrangements from third-party providers of such facilities. Given its
3 limitations, the SCE&G Lease/Finance Option does not, in my view, fulfill the
4 requirement of the Act in encouraging the leasing of DER facilities.

5
6 **Q. Why is third-party leasing important to Walmart?**

7 A. As I noted above, it is important to Walmart that it be able to utilize and lease from third-
8 party vendors of DER, principally solar facilities, in seeking to meet its renewable energy
9 goals. Being allowed to lease facilities also requires no up-front cost, making projects
10 more financially viable. It also insures that there is a broader array of choice for non-
11 residential customers to consider. As a whole, this will enhance and encourage the use of
12 renewable sources.

13
14 **Q. What do you recommend with respect to SCE&G's proposed DER program in that**
15 **regard?**

16 A. I recommend the following:

- 17 • That SCE&G be directed to revise its proposed BCA program to clarify that it is
18 available to all customers procuring or leasing DER facilities from third-party
19 providers.
- 20 • That no limitation be placed on the duration of a BCA.
- 21 • That the "Lease/Finance Option" as proposed not be construed, standing alone, as
22 fulfilling the requirement of the Act that SCE&G's DER program encourages the
23 leasing of renewable energy facilities up to 1,000 kW.

1 **Q. Do you have other concerns about SCE&G's proposed plan?**

2 A. I have not addressed other concerns, but Walmart's position in this case may be
3 supplemented to the extent other parties to the case raise issues that Walmart has not yet
4 considered.

5

6 **Q. Does that conclude your Direct Testimony?**

7 A. Yes.

STATE OF SOUTH CAROLINA
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DOCKET NO. 2015-54-E

IN RE: Petition of South Carolina Electric)
& Gas Company for Approval to Participate in a)
Distributed Energy Resource Program)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served one (1) copy of the foregoing Direct Testimony upon the following parties to this proceeding via First Class Mail and Electronic Mail:

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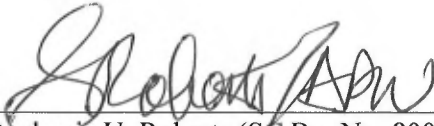
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Stephanie U. Roberts (SC Bar No. 80073)

Dated: May 14, 2015